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OFFICE OF PETITIONS

In re Application of
Mitchell R. Swartz
Application No. 09/748,691
Filed: December 26, 2000
Attorney Docket No. n/a

ON PETITION

This is a decision on the petition filed October 17, 2005, under 37 CFR 1.181(a)(3) requesting the Director exercise his supervisory authority and overturn the decision dated May 10, 2005 of the Group Director of Technology Center 3600.

The petition is **DISMISSED** as being untimely filed.


Petitioner is requesting a reconsideration of the petition decision of May 10, 2005 which denied the appellant's petitions of November 26, 2003 and February 3, 2004 which appellant disagrees with the examiner's holding of non-compliance in the appeal briefs.

A review of the record shows that the request for relief occurred not later than October 17, 2005, over at least 5 months subsequent to the petition decision of May 10, 2005. 37 CFR 1.181(f) states:

The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

The instant petition was not received within two months from the date of the issue complained of and the petitioner had more than ample time within the constraints of 37 CFR 1.181(f) to have timely filed the instant petition. Therefore the requested relief is considered to be untimely and will not be treated.

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414.


Charles Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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